

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

DARREK MORKERT,	)	
	)	
Claimant,	)	<b>IC 05-503295</b>
v.	)	
	)	
INTERSTATE BATTERIES,	)	<b>ORDER</b>
	)	
Employer,	)	
and	)	<b>FILED OCT 20 2006</b>
	)	
IDAHO STATE INSURANCE FUND,	)	
	)	
Surety,	)	
Defendants.	)	
	)	

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Pursuant to Idaho Code § 72-717, Referee Douglas A. Donohue submitted the record in the above-entitled matter, together with his proposed findings of fact and conclusions of law to the members of the Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant has not reached MMI.
  2. Claimant is entitled to medical care benefits including surgery as required by his treating physician.
  3. Claimant is entitled to attorney fees as provided for by Idaho Code § 72-804.
- Unless the parties can agree on an amount for reasonable attorney fees, Claimant's counsel shall, within twenty-one (21) days of the entry of the Commission's decision, file with the Commission

a memorandum of attorney fees incurred in counsel's representation of Claimant in connection with these benefits, and an affidavit in support thereof. The memorandum shall be submitted for the purpose of assisting the Commission in discharging its responsibility to determine reasonable attorney fees in this matter. Within fourteen (14) days of the filing of the memorandum and affidavit thereof, Defendants may file a memorandum in response to Claimant's memorandum. If Defendants object to the time expended or the hourly charge claimed, or any other representation made by Claimant's counsel, the objection must be set forth with particularity. Within seven (7) days after Defendants' counsel filed the above-referenced memorandum, Claimant's counsel may file a reply memorandum. The Commission, upon receipt of the foregoing pleadings, will review the matter and issue an order determining attorney's fees.

4. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all issues adjudicated.

DATED this 20<sup>TH</sup> day of OCTOBER, 2006.

INDUSTRIAL COMMISSION

/S/\_\_\_\_\_  
Thomas E. Limbaugh, Chairman

/S/\_\_\_\_\_  
James F. Kile, Commissioner

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R. D. Maynard, Commissioner

ATTEST:

/S/\_\_\_\_\_  
Assistant Commission Secretary

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## **CERTIFICATE OF SERVICE**

I hereby certify that on 20<sup>TH</sup> day of OCTOBER, 2006, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following:

Richard K. Dredge  
P.O. Box 9499  
Boise, ID 83707-3499

W. Benjamin Slaughter III  
P.O. Box 1539  
Boise, ID 83701-1539

db

/S/\_\_\_\_\_